(1)

Supreme Court, U.S.
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No.

SUPREME COURT OF THE UNITED STATES

DOROTHY SPRAGGINS-GULLY,

Petitioner,

v.

CHICAGO SCHOOL REFORM BOARD OF TRUSTEES,

Respondent.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit

Petition For a Writ of Certiorari

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Questions Presented For Review

1. Whether the 7th Circuit Court of Appeals can ignore this Court's ruling in Lujan v. National Wildlife Federation, 497 US at 888 (1990) that one sworn averment of a fact essential to the non-movant's case defeats a motion for summary judgment, when Petitioner presented 97 such sworn averments in her response to Respondent's motion for summary judgment.

2. Whether the trial court can limit a Title VII plaintiff to claims for events within 300 days of her filing her EEOC Charge but allow the Respondent to raise alleged poor performance events more than 300 days prior to the filing of said EEOC Charge.

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Rule 14 Contents of a Petition for a Writ of Certiorari

a. Questions presented for review are on previous page.

b. Parties are both listed on the caption, and there are no corporations to discuss.

c. A table of contents follows.

d. No citations to the District Court nor 7th Circuit opinions exist because neither was published.

e. (i) The District Court Judgment was entered May 19, 1999.

(ii) The District Court's Order denying Petitioner's Federal Rule of Civil Procedure 59 (e) Motion was entered July 7, 1999.

The 7th Circuit Court of Appeals' Order denying Petitioner's Motion for Re-consideration En Banc was entered March 15, 2000.

(iii) Not applicable

(iv) The statutory provision believed to confer on this Court jurisdiction to review on a writ of certiorari the judgment or order in question is 28 USC § 2101(c) because it is filed within 90 days of the 7th Circuit's denial of the En Banc petition and also 28 USC § 1254(1).

(v) Not applicable

f. Federal Rule of Civil Procedure 56 - pertinent text in appendix.

g. (i) not applicable

(ii) The basis for jurisdiction of the District Court was 29 USC § 621 *et seq.*

h . A direct and concise argument amplifying the reasons relied on for the allowance of the writ are that in a FRCP 56 summary judgment motion, the non-moving party is supposed to be able to defeat the motion by showing at least one sworn

statement, essential to the case, by affidavit or deposition or interrogatory response which raises a genuine issue of material fact for the jury to consider. Here, Defendant-Respondent did not take Plaintiff-Petitioner's deposition but instead filed a FRCP 56 motion with several affidavits attached in which the affiants claimed that Petitioner had poor performance as a teacher. In her response, Petitioner by sworn affidavit specifically denied each and every one of the 56 paragraphs and then added 41 additional paragraphs in her affidavit stating events which showed age discrimination by supervisory personnel and retaliation events taken upon Petitioner by said supervisors when Petitioner complained about the age discrimination treatment on the job. The District Court decided that since there were several affidavits from School personnel for Respondent and only one affidavit by Petitioner for herself, even though it had 97 paragraphs, that Petitioner

must do "more" to prove her case and prove that Respondent was lying when it said Petitioner had poor work performance. The 7th Circuit went along with this reasoning, naturally, since it had without this Court's precedent or approval set up this test for pretextual discipline in violation of this Court's specific ruling on summary judgments in the Lujan case - - - in other words, both courts depart from FRCP 56 and want to make a respondent to a FRCP 56 motion prove her case, rather than simply identify sworn statements raising genuine issues of material fact like FRCP 56 requires. This Court should allow the writ to clarify all through the federal court system that summary judgments can not be allowed, based merely on the Judge's guess or perception of whether the genuine, material fact-disputes in employment discrimination cases might be decided by the jury for the employer.

The second issue or reason that this Court should allow the writ is that the District Court required Petitioner to limit her

claims and proof to a time limit of 300 days before she filed her EEOC Charge of age discrimination and retaliation, but allowed Respondent to bring in statements of 'alleged poor performance' more than 300 days before the Charge was filed. This is an unequal application of the law, and Petitioner tried to raise this point by way of her Affidavit in the District and her argument on two specific 'denied-events' in the 7th Circuit, but was ignored. So, this is not something Petitioner is bringing up for the first time in this Court. It is an injustice all through the federal court system that does not appear to have precedent in this Court and needs a ruling to clarify the law.